

REMARKS

Applicants respectfully request that the present application be reexamined and reconsidered in light of the remarks that follow.

Claims 1-8, 10-14 and 16-19 are pending in the present application. The claims have not been amended.

In the outstanding Official Action, claims 1-8, 10-14, and 16-19 were rejected under 35 USC §102(e) as allegedly being anticipated by KELLER et al. This rejection is respectfully traversed.

As the Examiner is aware, to constitute anticipation, each and every recitation of the claimed invention must be found in one prior art source. *In re Marshall*, 577 F.2d 301, 198 USPQ 344 (CCPA 1978). Upon reviewing the KELLER et al. publication, it is apparent that only fluorinated alkanes mixed with CO₂ were considered to improve the properties of aerosols containing pharmaceutically active compounds. Thus, while KELLER et al. may advocate the use of a mixture of alkanes and CO₂, KELLER et al. do not disclose or suggest using N₂O as a propellant gas.

As a result, KELLER et al. fail to anticipate or render obvious the claimed invention.

While the RD17066 publication is cited in the KELLER et al. article, the RD17066 publication also fails to teach the use of N₂O in combination with the claimed compounds. Thus, whether

one views KELLER et al. alone, or in combination with the RD17066 publication, each and every recitation of the claimed invention is not disclosed in the cited publications.

Moreover, neither publication provides one of ordinary skill in the art the necessary motivation or reasonable expectation of success to combine and modify the teachings of the publications in a manner to obtain the claimed invention. Indeed, the claimed invention exhibits an unexpected synergistic defect in terms of the treatment of pain.

N_2O molecules have been shown to have an antagonistic effect on NMDA receptors that are involved in the pain mechanism, i.e., N_2O molecules block NMDA receptors found in the brain, which help prevent a patient from becoming addicted to an active compound such as morphine or an opium-containing substance.

As evidence of this assertion, the Examiner's attention is directed to the Declaration by Laurent LECOURT. Indeed, the Declaration provides additional evidence as to the unexpected results exhibited by the claimed invention.

In view of the foregoing remarks and the Declaration by Laurent LECOURT, applicants respectfully submit that KELLER et al., whether evidenced by the RD17066 publication or not, fails to anticipate or render obvious the claimed invention.

Thus, in light of the above, applicants believe that this application is in condition for allowance, with claims 1-8,

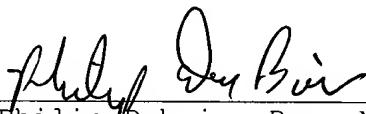
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10-14, and 16-19, as presented. Applicants request the allowance and passage to issue on that basis.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item:

- executed Declaration Under Rule 132